

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7267**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CHARLIE LEE DAVIS, a/k/a Chuck,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at Danville. Jackson L. Kiser, Senior District Judge. (CR-97-4, CA-01-169)

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Submitted: October 23, 2003

Decided: October 31, 2003

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Before WILLIAMS, MOTZ, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Charlie Lee Davis, Appellant Pro Se. Donald Ray Wolthuis, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Charlie Lee Davis seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2000) motion. Davis cannot appeal this order unless a circuit judge or justice issues a certificate of appealability, and a certificate of appealability will not issue absent a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A habeas appellant meets this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, \_\_\_, 123 S. Ct. 1029, 1039 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude Davis has not made the requisite showing.\* Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

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\* To the extent Davis seeks to raise for the first time on appeal issues not properly presented to the district court, we find that they are waived. Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993).